IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 13403 of 2004

Between:

1 R. Malla Goud, S/o. R. Pochaiah,
R/o. 3-3-18, R/o. Petbashirabad Village, Jeedimetla, I.D.A., Qutubullapur Mandal, R.R. District.
2 G. Ramulu, S/o. G. Yadagiri,
R/o. 3-3-10, R/o. Petbashirabad Village, Jeedimetla, I.D.A., Qutubullapur Mandal, R.R. District.
3 V. Sudershan, S/o. V. Narasaiah,
R/o. 3-3-40, R/o. Petbashirabad Village, Jeedimetla, I.D.A., Qutubullapur Mandal, R.R. District. **..... PETITIONERS**

AND

1 District Collector, R.R. District, Khairatabad, Hyderabad.
2 Deputy Collector and M.R.O., Qutubullapur Mandal, R.R. District.
3 Commissioner, Qutubullapur, Muncipality, R.R. District.
4 Hyderabad Urban Development Authority, Rep by its Secretary, Paigha Palace, Begumpet, Hyderabad.
5 Commissioner, Transport Authority, Somajiguda, Hyderabad.
6 Indian Oil Corporation Ltd. rep by its Divisional Manager, Divisional Office, 3-6-436 to 438 2nd Floor, Nasapur House, Hyderabad. **.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other Appropriate writ, order or direction declaring the action of the respondents 1 to 4 in allowing the Respondents No. 5 and 6 for construction of Petrol Bunk and for other purposes in the Tank land comprised in Sy.No. 91 of Petbasheerabad, Qutubullapur Mandal, Ranga Reddy District, as

illegal, arbitrary, unjust and contrary to Statutory provisions and the settled decisions and consequently direct the respondents to prevent the same from being used for other purposes other than keeping it as Tank only.

Counsel for the Petitioners: MR.M.S.N.PRASAD

Counsel for the Respondent Nos.1 to 3.: GP FOR REVENUE

Counsel for the Respondent No.6: P.V. Sanjay Kumar

Counsel for the Respondent Nos. 4 and 5: None

The Court made the following Oral Order: (per Sri Devinder Gupta, CJ)

This petition is filed as "Public Interest Litigation" by three individuals, residents of Pet Basheerabad Village, Jeedimetla, I.D.A., Qutbullapur Mandal, R.R. District. The grievance of the petitioners is that respondents 1 to 4 are not taking steps to stop the construction being made by the 6th respondent in the tank in Survey No. 91 of Pet Basheerabad Village despite number of representations. They allege that there is only one tank in the village and it is the duty of the respondents to safeguard the interest of the village by developing the existing tank. Instead of doing so, the 2nd respondent has issued instructions for transferring Ac.9.4 guntas of land out of Ac. 14.13 guntas to respondent No.5 and now respondent No.5 has started construction of petrol bunk, which is not permissible in law.

Affidavits in reply have been filed by the Deputy Collector and Mandal Revenue Officer,Qutbullapur Mandal and the Chief Divisional Retail Sales Manager of Indian Oil Corporation, Secunderabad .

The Mandal Revenue Officer, in his affidavit states that Ac.14.13 guntas of land in Survey No.91 of Pet Basheerabad was classified as "Shimakunta Sarkari" and was a tank long before. But, by passage of time, private lands in the vicinity were converted into non-agricultural purposes and later on certain residential houses have come up. In view of the developmental activity around the water tank, the water spread area got dried up and has almost lost its nature and is not in existence and the Government decided to use the land for public purposes. On requisition of Transport Commissioner, possession of the land was handed over to the Transport Department in the year 1989 and it was in possession of Ac.6.2 guntas of land. Out of the total extent of Ac.14.13 guntas., 3.00 acres of land was utilized for formation of National High Way No.7 road; Ac.4.22 guntas has been used as burial ground and 0.08 guntas has been used as pathway to reach burial ground. There is also a

temple existing on a part of this land. Further, out of the extent of land allotted to Transport department, it was decided to set up a Petrol Bunk through Indian Oil Corporation to cater to the requirements of the trucks stationed and banked in the parking area for fuel.

Respondent No.6 in his affidavit stated that out of Ac.14.13 guntas, Ac.9.01 guntas has been handed over to the Transport Commissioner and from out of which 4,000 sq. yards was leased out to Indian Oil Corporation for establishment of a retail outlet. It was by G.O.Ms. No. 157, Revenue, dated 13.2.1987 that instructions were issued to Mandal Revenue Officer to handover the same to the Transport Commissioner. As a matter of fact, Additional Secretary to the Government, Revenue Department, Andhra Pradesh vide its Proceedings in Memo No. 106324/Q1/88, dated 21.12.1988 had approved the recommendation made by the authorities concerned and accorded permission for construction of truck parking complex by relaxing the ban order issued by the Government in G.O. Ms. No. 157, Revenue Department, dated 13.2.1987.

While denying the allegations, petitioners filed affidavit in reply to both the counters.

Having considered the submission of the learned counsel for the petitioners and having perused the counter affidavits and affidavit in reply filed by the petitioners, we find that the proceedings issued by the Government vide G.O. Ms. No. 157, dated 13.2.1987 relaxing the ban are not challenged in the writ petition. When once an order has been passed by the Government and there is no challenge thereto, there is hardly any force in the writ petition. More over, we are of the view that the writ petition appears to be a privately interested petition since the Government issued the relaxation orders in the year 1987 based on the recommendations of the authorities that the land could be put to use for a better public purpose than for restoration of house sites.

There is no merit in the writ petition and the same is accordingly dismissed. No costs.

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(DEVINDER GUPTA, C.J.)

Date: 23rd September 2004.

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(C.V. RAMULU,J)

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To

1 The District Collector, R.R. District, Khairatabad, Hyderabad.
2 The Deputy Collector and M.R.O., Qutubullapur Mandal, R.R. District.
3 The Commissioner, Qutubullapur, Muncipality, R.R. District.
4 The Secretary, Hyderabad Urban Development Authority, Paigha Palace, Begumpet, Hyderabad.
5 The Commissioner, Transport Authority, Somajiguda, Hyderabad.
6 The Divisional Manager,Indian Oil Corporation Ltd., Divisional Office, 3-6-436 to 438 2nd Floor, Nasapur House, Hyderabad.

7. Two C.Cs. to G.P. for Revenue, High Court Buildings, Hyderabad. (OUT)

8. Two C.D. copies